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COMERICA BANK

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

ROBERT PRITIKIN, et al.,

CASE NO. CV 09-03303 JF

Plaintiffs,

**AMENDED NOTICE OF MOTION TO
DISMISS THE COMPLAINT BY
DEFENDANT COMERICA BANK**

COMERICA BANK, et al.,

Date: October 30, 2009

Defendants.

Dept.: Honorable Jeremy Fogel

Complaint filed: July 20, 2009

Complaint filed: Ju

Trial Date Set:

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ATTORNEYS OF RECORD

TO PLAINTIFFS AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on October 30, 2009, at 9:00 a.m. in Courtroom 3 of the above-entitled Court, located at 280 South 1st Street, San Jose, California 95113, Defendant Comerica Bank (“Defendant”) will move this Court pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for an order dismissing the complaint and each of the claims for relief alleged therein. Defendant seeks the requested relief on the grounds that the complaint fails to plead facts sufficient to state a claim for relief. This motion was previously noticed for hearing on October 23, 2009, and has been continued to October 30, 2009 pursuant to Local Rule 7-7 and an agreement between the parties. Pursuant to Local Rules 7-3 and 7-7(d), plaintiffs’ opposition papers shall be filed on or before October 9, 2009, and Defendant’s reply papers shall be due on or before October 16, 2009.

The motion will be based upon this Amended Notice; the Memorandum of Points and Authorities, Request for Judicial Notice and Declaration of Monique Jewett-Brewster previously filed on August 28, 2009; the complete files and records in this action; the written and oral arguments of counsel; and such other and further evidence as the Court may deem proper.

DATED: September 10, 2009

BUCHALTER NEMER
A Professional Corporation

By: Richard C. Darwin

Attorneys for Defendant, COMERICA BANK